

1 The opinion in support of the decision being entered today
is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BENJAMIN MANDLER and ROMAN TALYANSKY

Appeal 2007-1502
Application 09/929,260
Technology Center 2100

Decided: November 2, 2007

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP,
and MAHSHID D. SAADAT, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 67, 68, 76-80, and 88-90.
Benjamin Mandler and Roman Talyansky ("the Appellants") appeal
therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C.
§ 6(b).

A. INVENTION

The invention at issue on appeal is a semantically based file system. (Specification ¶ 0002.) According to the Appellants, hierarchical systems of organizing documents fail to meet the needs of computer users attempting to access vast amounts of changing data. In providing component names for a user, they add, conventional file systems attach no semantic significance to the identified names. (*Id.* ¶ 0003.) In contrast, their invention encodes semantic information in the names of virtual directories. (*Id.* ¶ 0002.)

B. ILLUSTRATIVE CLAIM

Claim 67, which further illustrates the invention, follows.

67. A computer implemented information retrieval system for returning a semantically dependent directory structure of files to a user, comprising:

- a file system engine, that receives a file request via a file system application programming interface, wherein said file request specifies a file content of memorized files;

- a parser, linked to said file system engine, that retrieves structural information of documents, said parser further retrieving at least one of elements, attributes and respective values thereof from said documents;

- an indexer, linked to said parser, for constructing an inverted index of said elements and said attributes and said respective values thereof,

- wherein responsive to said file request, said file system engine retrieves postings of said inverted index that satisfy requirements of said file request, and returns a hierarchical tree of directories to said user; and

- wherein said file system engine returns a special virtual directory in each of said directories, wherein a content of said

special virtual directory comprises at least one level of said hierarchical tree, said one level being more deeply nested than a level of said special virtual directory in said hierarchical tree.

C. REJECTION

Claims 67, 68, 76-80, and 88-90 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Pub. No. 2001/0049675 ("the Publication").

II. ISSUE

"Rather than reiterate the positions of parties *in toto*, we focus on the issue therebetween." *Ex Parte Filatov*, No. 2006-1160, 2007 WL 1317144, at *2 (BPAI 2007). The Examiner finds that claims 67, 68, 76-80, and 88-90 read on Figure 8 and claims 19, 20, 23, and 24 of the Publication. (Answer 3-5.) The Appellants "present[] no arguments pertaining to the content of the . . . Publication or its application to the claims." (*Id.* 9) Instead they argue that "the same inventor was the source of both the claimed subject matter in the present application and the cited subject matter in the prior art. . . ." (Reply Br. 1.) In support thereof, they submit three declarations, which the Examiner labels "Declaration A," "Declaration B," and "Declaration C." (Answer 5.) Therefore, the issue is whether the Appellants' Declarations establish that Benjamin Mandler ("Mandler") invented both the subject matter of claims 67, 68, 76-80, and 88-90 and the relied-on disclosure of the Publication.

III. FINDINGS OF FACT

1. The Publication names the following inventors: Benjamin Mandler, Yoelle Maarek-Smadja, Alain Azagury, and Michael Factor.

2. All of these inventors declare, "Mandler was the sole inventor of all the subject matter that was cited by Examiner in Fig. 8 and in claims 19, 20, 22 and 23 of the Publication." (Decl. B ¶ 2.)

3. Mandler and Roman Talyansky ("Talyansky") are the applicants for U.S. Patent Application No. 09/929,260, the application from which the instant appeal arises.

4. Both of these Applicants declare, "Mandler was the sole inventor of claims 67, 68, 76-80 and 88-90 in the aforesaid Application." (Decl. C ¶ 2.)

IV. ANALYSIS

The aforementioned Declarations establish that Mandler invented both the subject matter of claims 67, 68, 76-80, and 88-90 and the relied-on disclosure of the Publication. We are unpersuaded by the Examiner's allegation that because "Talyansky claimed inventorship on dependent claims that incorporate the subject matter of independent claims, his contribution to the independent claims cannot be fully ruled out." (Answer 7.) Talyansky unequivocally avers that Mandler was the sole inventor of the claims on appeal. (FOF 4.) That Talyansky and Mandler jointly invented

the subject matter of other claims (Decl. C ¶ 3), does not contradict that averment.

V. ORDER

Therefore, we reverse the rejection of claims 67, 68, 76-80, and 88-90 under § 102(e).

REVERSED

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, N.W.
SUITE 300
WASHINGTON, DC 20001-5303